

# LEE LITIGATION GROUP, PLLC

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August 14, 2020

**Via ECF:**

The Honorable Valerie E. Caproni, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

**MEMO ENDORSED**

Re: *Montalvo et al v. Fig & Olive Founders LLC et al*  
Case No. 20-cv-01603 (VEC)

Dear Judge Caproni:

We represent Plaintiffs and write in response to your Honor's Order of July 20, 2020, extending Plaintiff's time to serve until August 14, 2020.

Plaintiffs have now served the Corporate Defendants (1) FIG & OLIVE FOUNDERS LLC, (2) FIG & OLIVE INC. d/b/a FIG & OLIVE UPTOWN, and Plaintiff have been making attempts to serve Defendants (1) LAURENT HALASZ, (2) JEAN PIERRE HALASZ, (3) SEBASTIAN GAULT, and (4) CHRISTOPHER MEAKER. See Affidavits of Due Diligence attached as **Exhibit A**.

Additionally, Plaintiffs have had discussions with Corporate Counsel to Fig and Olive, who will be providing organizational information as to Defendants.

Plaintiff respectfully requests that the Court grant an extension of 60 days, giving Plaintiffs until October 13, 2020 to serve. This is the second request for an extension of time to serve, the first occurring on July 17, 2020, where the Court granted an extension until August 14, 2020.

We thank the Court for considering this request.

Respectfully submitted,

/s/ CK Lee

C.K. Lee, Esq.

The original deadline to complete service of process was May 25, 2020. Because Plaintiffs have failed to provide any reason why service of process should take eight months from the filing of the complaint, the motion is DENIED, and the four unserved defendants are hereby dismissed without prejudice.

The Clerk of Court is respectfully directed to terminate the four unserved individuals as defendants.

SO ORDERED.

Date: 08/17/2020

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE

## EXHIBIT A

ALBERTO MONTALVO, ETAL

Plaintiff(s)

- against -

Index # 1:20-CV-01603-VEC

FIG &amp; OLIVE FOUNDERS LLC, ETAL

Purchased February 24, 2020

Defendant(s)

**AFFIDAVIT OF DUE DILIGENCE**

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

ANDRE MEISEL BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

LEE LITIGATION GROUP requested that I serve a copy of the SUMMONS AND COMPLAINT in the above action for personal service upon CHRISTOPHER MEAKER at

C/O FIG & OLIVE FIFTH AVENUE LLC  
10 E. 52ND STREET  
5TH AVENUE & MADISON AVENUE  
NEW YORK, NY 10022

Your deponent made proper and diligent effort to serve said process on the above named person(s). I called at the aforementioned address on

Date: 07/27/20 Time: 1257 Reason: AT THE GIVEN ADDRESS IS "FIG & OLIVE FIFTH AVENUE LLC". THERE IS A SIGN POSTED ON THE DOOR STATING THAT THEY ARE CLOSED DUE TO THE CORONAVIRUS OUTBREAK UNTIL FURTHER NOTICE.

Your deponent verily believes that he will be unable to effect personal service upon the above named person(s) herein, although your deponent made due and diligent efforts to effect same.

Sworn to me on: August 5, 2020

JOSEPH KNIGHT  
Notary Public, State of New York  
No. 01KN6178241  
Qualified In New York County  
Commission Expires November 26, 2023

RALPH J MULLEN  
Notary Public, State of New York  
No. 01MU6238632  
Qualified in Queens County  
Commission Expires April 11, 2023

VINETTA BREWER  
Notary Public, State of New York  
No. 4949206  
Qualified in Bronx County  
Commission Expires April 3, 2023

**ANDRE MEISEL**

License #: 1372356

Invoice #: 747714

ALBERTO MONTALVO, ETAL

Plaintiff(s)

Index # 1:20-CV-01603-VEC

- against -

FIG & OLIVE FOUNDERS LLC, ETAL

Purchased February 24, 2020

Defendant(s)

**AFFIDAVIT OF DUE DILIGENCE**

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

NICHOLAS VIVEROS BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

LEE LITIGATION GROUP requested that I serve a copy of the SUMMONS AND COMPLAINT in the above action for personal service upon LAURENT HALASZ at

C/O FIG & OLIVE  
808 LEXINGTON AVENUE  
NEW YORK, NY 10021

Your deponent made proper and diligent effort to serve said process on the above named person(s). I called at the aforementioned address on

July 28, 2020 at 1511 Hours and July 29, 2020 at 1108 Hours and I was unable to serve the defendant. At the given address is "Fig & Olive". On each attempt I knocked on the door but I received no answer. The restaurant is closed. On July 30, 2020 at 1537 Hours I looked on their website there is a notice stating "In cooperation with government authorities, we are temporarily closed. During this time, we will not be offering delivery or pickup service. We will reopen as soon as it is safe to do so."

Your deponent verily believes that he will be unable to effect personal service upon the above named person(s) herein, although your deponent made due and diligent efforts to effect same.

Sworn to me on: August 7, 2020

JOSEPH KNIGHT  
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Notary Public, State of New York  
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**NICHOLAS VIVEROS**

License #: 2094853

Invoice #: 747715

ALBERTO MONTALVO, ETAL

Plaintiff(s)

Index # 1:20-CV-01603-VEC

- against -

Purchased February 24, 2020

FIG & OLIVE FOUNDERS LLC, ETAL

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LEE LITIGATION GROUP requested that I serve a copy of the SUMMONS AND COMPLAINT in the above action for personal service upon SEBASTIAN GAULT at

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808 LEXINGTON AVENUE  
NEW YORK, NY 10021

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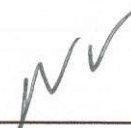
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ALBERTO MONTALVO, ETAL

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LEE LITIGATION GROUP requested that I serve a copy of the SUMMONS AND COMPLAINT in the above action for personal service upon JEAN PIERRE HALASZ at

C/O FIG & OLIVE  
808 LEXINGTON AVENUE  
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